

AMENDED IN ASSEMBLY APRIL 25, 2013

AMENDED IN ASSEMBLY APRIL 11, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 973**

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**Introduced by Assembly Member Quirk-Silva**

February 22, 2013

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An act to amend Section 1417.2 of, and to add and repeal Section 1417.5 of, the Health and Safety Code, relating to long-term health care facilities, and making an appropriation therefor.

### LEGISLATIVE COUNSEL'S DIGEST

AB 973, as amended, Quirk-Silva. Long-term health facilities: culture change.

Existing law provides for the licensure of long-term health care facilities by the State Department of Public Health. Existing law, the Long-Term Care, Health, Safety, and Security Act of 1973, authorizes the department to assess penalties for violation of prescribed requirements and requires the moneys collected as a result of the imposed penalties to be deposited into the State Health Facilities Citation Penalties Account. Existing law provides that moneys derived from civil penalties for violations of federal law shall be deposited into the Federal Health Facilities Citation Penalties Account. Moneys in both accounts are to be used, upon appropriation by the Legislature, for the protection of health or property of residents of long-term health care facilities, as specified. ~~Existing~~ Existing law also authorizes the department to use up to ~~\$150,000~~ \$130,000 of moneys from the Federal Health Facilities Citation Penalties Account for the improvement of quality of care and quality of life for facility residents.

This bill would require moneys from the State Health Facilities Citation Penalties Account to be continuously appropriated and used, as specified. By creating a continuously appropriated fund, the bill would make an appropriation. The bill would authorize the department to use up to \$150,000 of moneys each fiscal year from the State Health Facilities Citation Penalties Account for the general promotion of culture change and person-centered care in the state's long-term care facilities, as specified. The bill would require the department to use up to \$250,000 each fiscal year from the Federal Health Facilities Citation Penalties Account for specific projects as directed by the federal government for improvement of quality of life for long-term care residents, as specified.

This bill would also require, for 4 years after the receipt of funds from the State Health Facilities Citation Penalties Account, the director of the department to contract with a nonprofit organization, as specified, to promote culture change. The bill would require the nonprofit organization to serve long-term health care facilities stakeholders, including, among others, residents and long-term health care facility personnel, to perform a variety of tasks, including serving as the centralized information and technical assistance clearinghouse for best practices in long-term health care facilities for implementing person-centered care and culture change, as defined, and to submit annual reports.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The federal Nursing Home Reform Act allows the federal
- 4 government to issue sanctions against nursing homes that fail to
- 5 comply with federal Medicare and Medicaid quality of care
- 6 requirements.
- 7 (b) Civil money penalties are one of the sanctions established
- 8 by the federal government to encourage nursing homes to comply
- 9 with federal requirements and to prevent poor quality of care.
- 10 (c) The federal government contracts with state licensing and
- 11 certification agencies to inspect nursing homes and to issue civil
- 12 money penalties for violations of federal conditions of
- 13 participation.

1 (d) Moneys collected as a result of civil penalties imposed due  
2 to violations of federal and state statutes are deposited into two  
3 separate accounts that are established in the Special Deposit Fund  
4 pursuant to Section 16370 of the Government Code.

5 (e) These civil money penalties offer an opportunity to better  
6 the lives of nursing home residents by providing additional  
7 resources to the state to improve the quality of care and quality of  
8 life for residents.

9 (f) The federal Patient Protection and Affordable Care Act  
10 allows a portion of the federal civil money penalty funds to be  
11 used to support activities that promote quality of care and the  
12 well-being of nursing home residents in certified nursing homes.  
13 Specifically, federal regulations allow these funds to be used for  
14 the promotion of culture change.

15 SEC. 2. Section 1417.2 of the Health and Safety Code is  
16 amended to read:

17 1417.2. (a) Notwithstanding Section 1428, moneys collected  
18 as a result of state and federal civil penalties imposed under this  
19 chapter or federal law shall be deposited into accounts that are  
20 hereby established in the Special Deposit Fund created pursuant  
21 to Section 16370 of the Government Code. These accounts are  
22 titled the State Health Facilities Citation Penalties Account, into  
23 which moneys derived from civil penalties for violations of state  
24 law shall be deposited, and the Federal Health Facilities Citation  
25 Penalties Account, into which moneys derived from civil penalties  
26 for violations of federal law shall be deposited. Except as provided  
27 in paragraph (5), moneys from the State Health Facilities Penalties  
28 Account shall be continuously appropriated and used,  
29 notwithstanding Section 16370 of the Government Code, in  
30 accordance with state and federal law for the protection of health  
31 or property of residents of long-term health care facilities,  
32 including, but not limited to, the following:

33 (1) Relocation expenses incurred by the department, in the event  
34 of a facility closure.

35 (2) Maintenance of facility operation pending correction of  
36 deficiencies or closure, such as temporary management or  
37 receivership, in the event that the revenues of the facility are  
38 insufficient.

39 (3) Reimbursing residents for personal funds lost. In the event  
40 that the loss is a result of the actions of a long-term health care

1 facility or its employees, the revenues of the facility shall first be  
2 used.

3 (4) The costs associated with informational meetings required  
4 under Section 1327.2.

5 (5) Support for the Long-Term Care Ombudsman Program  
6 established pursuant to Chapter 11 (commencing with Section  
7 9700) of Division 8.5 of the Welfare and Institutions Code in an  
8 amount appropriated from the State Health Facilities Citation  
9 Penalties Account for this purpose in the annual Budget Act. If  
10 the amount of moneys in the account falls below eight million  
11 dollars (\$8,000,000), funding for the Long-Term Care Ombudsman  
12 Program shall receive priority over funding for the purposes  
13 described in paragraph (6).

14 (6) Moneys from the State Health Facilities Citation Penalties  
15 Account, in the amount not to exceed one hundred fifty thousand  
16 dollars (\$150,000) shall be used for the general promotion of  
17 culture change and person-centered care in the state's long-term  
18 care facilities.

19 (b) (1) Moneys from the Federal Health Facilities Citation  
20 Penalties Account, in the amount not to exceed two hundred fifty  
21 thousand dollars (\$250,000) each fiscal year, shall be used for  
22 specific projects as directed by the federal government for the  
23 improvement of quality of care and quality of life for long-term  
24 care residents, including the promotion of person-centered care  
25 and culture change.

26 (2) In order to promote culture change as specified in paragraph  
27 (1), projects undertaken by the nonprofit organization under the  
28 direction of the ~~state department~~ and federal government shall  
29 specify the desired outcomes, deliverables, and how the project is  
30 to be evaluated. At the commencement of the projects, the ~~state~~  
31 ~~department~~ shall post on its Internet Web site a description of the  
32 project to be undertaken, including a timeline for activities and  
33 evaluation. Within six months of the completion of the project,  
34 the ~~state department~~ shall post on its Internet Web site the  
35 outcomes of the projects.

36 (c) The department shall post on its Internet Web site, and shall  
37 update on a quarterly basis, all of the following regarding the funds  
38 in the State Health Facilities Citation Penalties Account and the  
39 Federal Health Facilities Citation Penalties Account:

40 (1) The specific sources of funds deposited into the account.

1 (2) The amount of funds in the account that have not been  
2 allocated.

3 (3) A detailed description of how funds in the account have  
4 been allocated and expended, including, but not limited to, the  
5 names of persons or entities that received the funds, the amount  
6 of salaries paid to temporary managers, and a description of  
7 equipment purchased with the funds. However, the description  
8 shall not include the names of residents.

9 SEC. 3. Section 1417.5 is added to the Health and Safety Code,  
10 to read:

11 1417.5. (a) In order to promote culture change, as specified  
12 in paragraph (6) of subdivision (a) of Section 1417.2, the director  
13 shall contract *through a competitive bid process* with a nonprofit  
14 organization that meets both of the following requirements:

15 (1) The organization has a proven record of experience in  
16 providing information, technical assistance, and direct services to  
17 long-term health care facilities and other stakeholders.

18 (2) The organization ~~includes on its board of directors, advisory~~  
19 ~~council, or both,~~ *demonstrates that it includes the involvement of*  
20 *the following persons:*

21 (A) Residents or family members of residents.

22 (B) Personnel and representatives of long-term health care  
23 facilities and facility personnel.

24 (C) Long-term health care facility resident advisory  
25 organizations.

26 (D) Representatives of state licensing agency personnel.

27 (E) The state ombudsman and a representative from the  
28 California Long-Term Care Ombudsman Association.

29 (b) The nonprofit organization shall do all of the following:

30 (1) Serve as the centralized information and technical assistance  
31 clearinghouse for the best practices for implementing  
32 person-centered care and culture change in long-term health care  
33 facilities.

34 (2) Develop and conduct training that is appropriate for a variety  
35 of long-term health care facility stakeholders.

36 (3) Assist the director in conducting data collection regarding  
37 the impact of culture change best practices on long-term health  
38 care facilities and its residents and personnel upon request.

39 (4) Determine the need for, and conduct, conferences for  
40 long-term health care facility personnel, residents, families,

1 advocacy organizations, educational institutions, community  
2 groups, and the general public, in order to improve the quality of  
3 life and resident satisfaction in facilities.

4 (5) Develop training materials, and under the direction of the  
5 director, distribute the training materials to appropriate stakeholders  
6 and report to the director on their distribution, and when possible,  
7 the results of the distribution.

8 (c) (1) The nonprofit organization shall submit annual progress  
9 reports on its activities, as required by the director. These reports  
10 shall provide a summary and evaluation of the activities of the  
11 organization. The report shall also include all of the following:

12 (A) An annual budget and summary of expenditures.

13 (B) Recommendations for improving the effectiveness of the  
14 efforts to disseminate the principles of culture change to long-term  
15 health care facilities.

16 (C) Recommendations for the continued efforts in the subsequent  
17 year.

18 (d) It is recognized that in order for the nonprofit organization  
19 to conduct the duties specified in this section these funds will  
20 support core operations of the organization, such as staffing salaries  
21 and operational expenses.

22 (e) Nothing in this chapter shall prohibit the nonprofit  
23 organization from seeking additional funding through charitable  
24 contributions, fees for conferences and training, and grants made  
25 from foundations or other organizations, including other  
26 governmental agencies, for the purpose of disseminating the  
27 principles of culture change.

28 (f) As used in this section, the following terms have the  
29 following meanings:

30 (1) "Culture change" means the national movement for the  
31 transformation of older adult services, based on person-centered  
32 values and practices where the voices of elders and those working  
33 with them are considered and respected. Core person-centered  
34 values are choice, dignity, respect, self-determination, and  
35 purposeful living, and include all of the following:

36 (A) Resident care and activities that are directed by the resident.

37 (B) A living environment that is designed to be a home rather  
38 than an institution.

39 (C) Close relationships between residents, family members,  
40 staff, and community.

1 (D) Work that is organized to support and empower all staff to  
2 respond to residents' needs and desires.

3 (E) Management that enables collaborative and decentralized  
4 decisionmaking.

5 (F) Systematic processes that are comprehensive,  
6 measurement-based, and utilized for continuous quality  
7 improvement.

8 (2) "Person-centered care" means treatment and care that places  
9 a person at the center of his or her own care and considers the  
10 needs of the older person. Principles of person-centered care  
11 include all of the following:

12 (A) Sharing power and responsibility with a person in  
13 decisionmaking about all matters of care and treatment.

14 (B) Ensuring that care is delivered in a manner that honors a  
15 person's customary preferences and routines.

16 (C) Ensuring that a person's quality of life is taken into account  
17 along with quality of care.

18 (g) This section shall remain in effect only until the January 1  
19 of the year that is four years after the date funds are received by  
20 the nonprofit organization for expenditure from the state fund, and  
21 as of that date is repealed, unless a later enacted statute, that is  
22 enacted before that date, deletes or extends that date.